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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,725	09/22/2008	Patrick Lewis Blott	SMNPH.009APC	3301

20995 7590 03/14/2011
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EXAMINER

TREYGER, ILYA Y

ART UNIT	PAPER NUMBER
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3761

NOTIFICATION DATE	DELIVERY MODE
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03/14/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/599,725	Applicant(s) BLOTT ET AL.	
	Examiner ILYA Y. TREYGER	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/02/2007; 01/30/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-15 of the US Patent Application No. 10/599725 filed 09/22/2008 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Freeman (US 2003/0021775).

4. In Re claims 1-4 and 13-15, Freeman discloses an apparatus for treating the skin surface, comprising:

(a) a fluid flow path, comprising a conformable wound dressing 24 (page 5, [0074], line 1; fig. 1), having a backing layer which is capable of forming a relatively fluid-tight seal over a wound (page 6, [0074], lines 14-29), an inlet pipe 20 (page 5, [0074], line 5; fig 1) for connection to a fluid supply tube, which passes under the wound-facing face 28 (page 5, [0074], line 9), an outlet pipe 22 (page 5, [0074], line 6; fig. 1) for connection to a fluid offtake tube, which passes through the wound-facing face 28 forming a relatively fluid-tight seal over the wound;

(b) a fluid reservoir 10 (page 5, [0074], line 2; fig. 1) connected by a fluid supply tube to the inlet pipe;

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- (c) a device 18 (page 5, [0073], line 12; fig. 1) for moving fluid through the wound dressing;
- (d) a means for supplying thermal energy 14 (page 5, [0071], lines 4-5) to the fluid in the wound, wherein the means for supplying thermal energy may be radiantly or convection-heated chamber; and
- (e) a means for providing simultaneous aspiration and irrigation of the wound (page 6, [0074], lines 14-18), such that fluid may be supplied to fill the flow path from the fluid reservoir via the fluid supply tube while fluid is aspirated by a device through the fluid offtake tube.

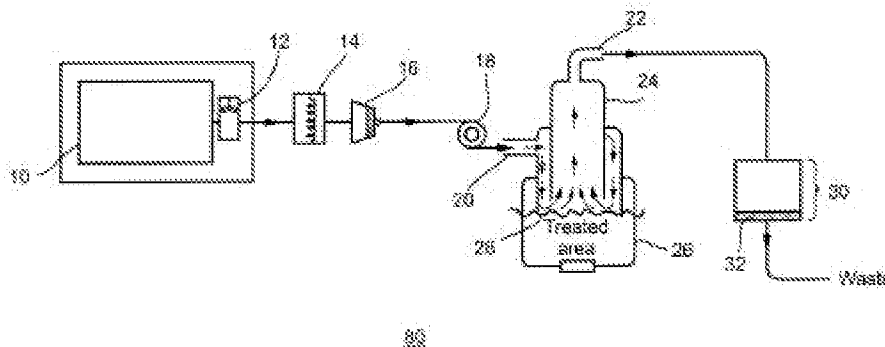


Fig. 1

5. In Re claim 12, Freeman discloses the apparatus, wherein the means for supplying thermal energy to the fluid in the wound causes the fluid in the wound to reach temperatures between 30°C and 40°C that encompasses the claimed temperature range.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman (US 2003/0021775) in view of Neher (DE3935818A).

10. In Re claims 5, 7 and 9-10, Freeman discloses the invention discussed above but does not expressly disclose the apparatus comprising a first device for moving fluid to the wound and a second device for moving fluid from the wound.

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Neher teaches an apparatus for healing wound (Abstract, line 1), wherein an irrigation solution is supplied by a first pump, and the used solution is removed by a second pump (Abstract, lines 5-8), wherein both pumps are fully capable of being a fixed throughput device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to supply the apparatus of Freeman with the second pump, as taught by Neher in order to provide separate control over the supplied and removed fluid flows.

11. In Re claim 6, Freeman discloses the apparatus, wherein the aspirated fluid goes to the collection vessel 30 (page 6, [0076], line 1; fig. 1).

12. In Re claims 8 and 11, Freeman discloses the apparatus, wherein a device for moving fluid is a variable-throughput device (page 5, [0073], line 24).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILYA Y. TREYGER whose telephone number is (571)270-3217. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ilya Y Treyger/
Examiner, Art Unit 3761

/Michele Kidwell/
Primary Examiner, Art Unit 3761